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AMENDED IN SENATE JULY 9, 2001

AMENDED IN SENATE JUNE 26, 2001

AMENDED IN ASSEMBLY APRIL 23, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 1329**

**Introduced by Assembly Member Lowenthal**

February 23, 2001

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An act to amend Sections ~~25198 and 25250.1~~ 25143.2, 25144, and 25198 of, and to add Section 25250.9 to, the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1329, as amended, Lowenthal. Hazardous waste testing laboratories: used oil ~~recycling~~ *transportation: recyclable materials*.

(1) Under existing law, the analysis of any material required by the hazardous waste control laws is to be performed by a laboratory certified by the State Department of Health Services pursuant to the provisions regulating environmental laboratories. Until January 1, 2001, analyses performed by a laboratory pursuant to the facility's waste analysis plan that were prepared in accordance with specified regulations were exempt from those requirements, if the laboratory met specified conditions.

This bill would reenact that exemption for those analyses performed by a laboratory pursuant to the facility's waste analysis plan.

(2) Existing law requires used oil to be managed as a hazardous waste unless the used oil meets specified requirements. Existing law defines “used oil” for purposes of the provisions regulating the handling of used oil and excludes, from the definition of “used oil” wastewater contaminated with de minimis quantities of used oil. Existing law specifies that de minimis quantities of used oil means small spills, leaks, or drippings from certain equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. A violation of the laws regulating used oil is a crime.

This bill would revise the definition of used oil, for purposes of that exemption, to specify that a de minimus quantity of used oil does not include a quantity of used oil that exceeds either the discharge limit for oil and grease applicable to the facility pursuant to the pretreatment requirements imposed by the publicly owned treatment works into which the facility discharges the wastewater or the discharge limit for oil and grease applicable to the facility pursuant to its waste discharge requirements. The bill would also require every hazardous waste transporter who transports used oil to annually obtain a written acknowledgment and waiver from each generator of used oil for whom the transporter cannot verify certain facts regarding the recycling of used oil *intends to transport the generator’s used oil to a facility that the transporter cannot document meets specified criteria. The bill would require a facility that provides a statement to a transporter that it meets those criteria, but does not itself produce the used oil into recycled oil, to make a specified certification, and would provide that a facility that makes a material misrepresentation in such a statement is in violation of the hazardous waste control laws.*

Since the bill’s new requirements concerning the ~~management~~ transportation of used oil would be a crime, the bill would impose a state-mandated local program.

(3) *Under existing law, recyclable materials are subject to the requirements of the hazardous waste control laws, but specified recyclable materials are excluded from classification as a waste if they meet certain requirements, including if the recyclable material is used or reused as an ingredient in an industrial product or as a safe and effective substitute for a commercial product and is subject to specified treatment procedures.*

*Existing law provides that certain units, including associated piping, that are part of a system used for the recovery of oil from oil-bearing*

*materials, and the associated storage of oil-bearing materials and the recovered oil, are exempt from the hazardous waste control laws if specified conditions are met, notwithstanding certain requirements concerning recyclable materials. A violation of any requirement of the hazardous waste control law is a crime.*

*This bill would additionally require that a recyclable material that is used or reused as an ingredient to make a product or a substitute for a commercial product not be a wastewater containing more than 75 parts per million total petroleum hydrocarbons that is transported offsite to a specified facility. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program.*

*The bill would make conforming changes to the provisions exempting systems for recovering oil for oil-bearing materials.*

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(4)~~

(5) The bill would declare that it is to take effect immediately as an urgency statute, *but would delay the operative date of the provisions regarding recyclable materials and the transportation of used oil until January 1, 2002.*

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 25143.2 of the Health and Safety Code*  
2 *is amended to read:*

3 25143.2. (a) Recyclable materials are subject to this chapter  
4 and the regulations adopted by the department to implement this  
5 chapter that apply to hazardous wastes, unless the department  
6 issues a variance pursuant to Section 25143, or except as provided  
7 otherwise in subdivision (b), (c), or (d) or in the regulations  
8 adopted by the department pursuant to Sections 25150 and 25151.

9 (b) Except as otherwise provided in subdivisions (e), (f), and  
10 (g), recyclable material that is managed in accordance with



1 Section 25143.9 and is or will be recycled by any of the following  
2 methods shall be excluded from classification as a waste:

3 (1) Used or reused as an ingredient in an industrial process to  
4 make a product if the material is not being reclaimed.

5 (2) Used or reused as a safe and effective substitute for  
6 commercial products if the material is not being reclaimed.

7 (3) Returned to the original process from which the material  
8 was generated, without first being reclaimed, if the material is  
9 returned as a substitute for raw material feedstock, and the process  
10 uses raw materials as principal feedstocks.

11 (c) Except as otherwise provided in subdivision (e), any  
12 recyclable material may be recycled at a facility that is not  
13 authorized by the department pursuant to the applicable hazardous  
14 waste facilities permit requirements of Article 9 (commencing  
15 with Section 25200) if either of the following requirements is met:

16 (1) The material is a petroleum refinery waste containing oil  
17 that is converted into petroleum coke at the same facility at which  
18 the waste was generated unless the resulting coke product would  
19 be identified as a hazardous waste under this chapter.

20 (2) The material meets all of the following conditions:

21 (A) The material is recycled and used at the same facility at  
22 which the material was generated.

23 (B) The material is recycled within the applicable generator  
24 accumulation time limits specified in Section 25123.3 and the  
25 regulations adopted by the department pursuant to paragraph (1)  
26 of subdivision (b) of Section 25123.3.

27 (C) The material is managed in accordance with all applicable  
28 requirements for generators of hazardous wastes under this  
29 chapter and regulations adopted by the department.

30 (d) Except as otherwise provided in subdivisions (e), (f), (g),  
31 and (h), recyclable material that meets the definition of a  
32 non-RCRA hazardous waste in Section 25117.9, is managed in  
33 accordance with Section 25143.9, and meets or will meet any of  
34 the following requirements is excluded from classification as a  
35 waste:

36 (1) The material can be shown to be recycled and used at the site  
37 where the material was generated.

38 (2) The material qualifies as one or more of the following:

39 (A) The material is a product that has been processed from a  
40 hazardous waste, or has been handled, at a facility authorized by

1 the department pursuant to the facility permit requirements of  
2 Article 9 (commencing with Section 25200) to process or handle  
3 the material, if the product meets both of the following conditions:

4 (i) The product does not contain constituents, other than those  
5 for which the material is being recycled, that render the material  
6 hazardous under regulations adopted pursuant to Sections 25140  
7 and 25141.

8 (ii) The product is used, or distributed or sold for use, in a  
9 manner for which the product is commonly used.

10 (B) The material is a petroleum refinery waste containing oil  
11 that is converted into petroleum coke at the same facility at which  
12 the waste was generated, unless the resulting coke product would  
13 be identified as a hazardous waste under this chapter.

14 (C) The material is oily waste, used oil, or spent  
15 nonhalogenated solvent that is managed by the owner or operator  
16 of a refinery that is processing primarily crude oil and is not subject  
17 to permit requirements for the recycling of used oil, of a public  
18 utility, or of a corporate subsidiary, corporate parent, or subsidiary  
19 of the same corporate parent of the refinery or public utility, and  
20 meets all of the following requirements:

21 (i) The material is either burned in an industrial boiler, an  
22 industrial furnace, an incinerator, or a utility boiler that is in  
23 compliance with all applicable federal and state laws, or is  
24 recombined with normal process streams to produce a fuel or other  
25 refined petroleum product.

26 (ii) The material is managed at the site where it was generated;  
27 managed at another site owned or operated by the generator, a  
28 corporate subsidiary of the generator, a subsidiary of the same  
29 entity of which the generator is a subsidiary, or the corporate  
30 parent of the generator; or, if the material is generated in the course  
31 of oil or gas exploration or production, managed by an unrelated  
32 refinery receiving the waste through a common pipeline.

33 (iii) The material does not contain constituents, other than  
34 those for which the material is being recycled, that render the  
35 material hazardous under regulations adopted pursuant to Sections  
36 25140 and 25141, unless the material is an oil-bearing material or  
37 recovered oil that is managed in accordance with subdivisions (a)  
38 and (c) of Section 25144 or unless the material is used oil removed  
39 from equipment, vehicles, or engines used primarily at the refinery  
40 where it is to be used to produce fuels or other refined petroleum

1 products and the used oil is managed in accordance with Section  
2 279.22 of Title 40 of the Code of Federal Regulations prior to  
3 insertion into the refining process.

4 (D) The material is a fuel that is transferred to, and processed  
5 into, a fuel or other refined petroleum product at a petroleum  
6 refinery, as defined in paragraph (4) of subdivision (a) of Section  
7 25144, and meets one of the following requirements:

8 (i) The fuel has been removed from a fuel tank and is  
9 contaminated with water or nonhazardous debris, of not more than  
10 2 percent by weight, including, but not limited to, rust or sand.

11 (ii) The fuel has been unintentionally mixed with an unused  
12 petroleum product.

13 (3) The material is transported between locations operated by  
14 the same person who generated the material, if the material is  
15 recycled at the last location operated by that person and all of the  
16 conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of  
17 paragraph (4) are met. If requested by the department or by any  
18 official authorized to enforce this section pursuant to subdivision  
19 (a) of Section 25180, a person handling material subject to this  
20 paragraph, within 15 days from the date of receipt of the request,  
21 shall supply documentation to show that the requirements of this  
22 paragraph have been satisfied.

23 (4) (A) The material is transferred between locations operated  
24 by the same person who generated the material, if the material is  
25 to be recycled at an authorized offsite hazardous waste facility and  
26 if all of the following conditions are met:

27 (i) The material is transferred by employees of that person in  
28 vehicles under the control of that person or by a registered  
29 hazardous waste hauler under contract to that person.

30 (ii) The material is not handled at any interim location.

31 (iii) The material is not held at any publicly accessible interim  
32 location for more than four hours unless required by other  
33 provisions of law.

34 (iv) The material is managed in compliance with this chapter  
35 and the regulations adopted pursuant to this chapter prior to the  
36 initial transportation of the material and after the receipt of the  
37 material at the last location operated by that person. Upon receipt  
38 of the material at the last location operated by that person, the  
39 material shall be deemed to have been generated at that location.

(v) All of the following information is maintained in an operating log at the last location operated by that person and kept for at least three years after receipt of the material at that location:

(I) The name and address of each generator location contributing material to each shipment received.

(II) The quantity and type of material contributed by each generator to each shipment of material.

(III) The destination and intended disposition of all material shipped offsite or received.

(IV) The date of each shipment received or sent offsite.

(vi) If requested by the department, or by any law enforcement official, a person handling material subject to this paragraph, within 15 days from the date of receipt of the request, shall supply documentation to show that the requirements of this paragraph have been satisfied.

(B) For purposes of paragraph (3) and subparagraph (A) of this paragraph, "person" also includes corporate subsidiary, corporate parent, or subsidiary of the same corporate parent.

(C) Persons that are a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent, and that manage recyclable materials under paragraph (3) or subparagraph (A) of this paragraph, are jointly and severally liable for any activities excluded from regulation pursuant to this section.

(5) The material is used or reused as an ingredient in an industrial process to make a product if the material *meets all of the following requirements:*

(A) *The material is not a wastewater that is non-RCRA hazardous waste, that contains more than 75 parts per million of total petroleum hydrocarbons, as determined by use of United States Environmental Protection Agency Method 1664, Revision A for Silica Gel Treated N-Hexane Extractable Material, and that has been transported offsite to a facility, other than a publicly owned treatment works, from a generator that is not a corporate subsidiary, corporate parent, or a subsidiary of the same corporate parent of the facility.*

(B) *Any discharges to air from the following procedures do not contain constituents that are hazardous wastes pursuant to the regulations of the department and are in compliance with applicable air pollution control laws.*



- 1 (C) *The material is not being treated by one or more of the*  
2 *following procedures:*
- 3 ~~(A)~~  
4 (i) Filtering.  
5 ~~(B)~~  
6 (ii) Screening.  
7 ~~(C)~~  
8 (iii) Sorting.  
9 ~~(D)~~  
10 (iv) Sieving.  
11 ~~(E)~~  
12 (v) Grinding.  
13 ~~(F)~~  
14 (vi) Physical or gravity separation without the addition of  
15 external heat or any chemicals.  
16 ~~(G)~~  
17 (vii) pH adjustment.  
18 ~~(H)~~  
19 (viii) Viscosity adjustment.
- 20 (6) The material is used or reused as a safe and effective  
21 substitute for commercial products, if the material ~~is not being~~  
22 ~~treated except by one or more of the following procedures, and if~~  
23 ~~any meets all of the following requirements:~~
- 24 (A) *The material is not a wastewater that is a non-RCRA*  
25 *hazardous waste, that contains more than 75 parts per million of*  
26 *petroleum hydrocarbons, as determined by use of United States*  
27 *Environmental Protection Agency Method 1664, Revision A for*  
28 *Silica Gel Treated N-Hexane Extractable Material, and that has*  
29 *been transported offsite to a facility, other than a publicly owned*  
30 *treatment works, from a generator that is not a part of the same*  
31 *corporation as the receiving facility, or a corporate subsidiary,*  
32 *corporate parent, or a subsidiary of the same corporate parent of*  
33 *the facility.*
- 34 (B) Any discharges to air from the ~~following~~ treatment of the  
35 material by the procedures specified in subparagraph (C) do not  
36 contain constituents that are hazardous wastes pursuant to the  
37 regulations of the department and the discharges are in  
38 compliance with applicable air pollution control laws.
- 39 (C) *The material is not being treated, except by one or more of*  
40 *the following procedures:*





- 1     ~~(A)~~
- 2     (i) Filtering.
- 3     ~~(B)~~
- 4     (ii) Screening.
- 5     ~~(C)~~
- 6     (iii) Sorting.
- 7     ~~(D)~~
- 8     (iv) Sieving.
- 9     ~~(E)~~
- 10    (v) Grinding.
- 11    ~~(F)~~
- 12    (vi) Physical or gravity separation without the addition of
- 13    external heat or any chemicals.
- 14    ~~(G)~~
- 15    (vii) pH adjustment.
- 16    ~~(H)~~
- 17    (viii) Viscosity adjustment.
- 18    (7) The material is a chlorofluorocarbon or
- 19    hydrochlorofluorocarbon compound or a combination of
- 20    chlorofluorocarbon or hydrochlorofluorocarbon compounds, is
- 21    being reused or recycled, and is used in heat transfer equipment,
- 22    including, but not limited to, mobile air-conditioning systems,
- 23    mobile refrigeration, and commercial and industrial
- 24    air-conditioning and refrigeration systems, used in fire
- 25    extinguishing products, or contained within foam products.
- 26    (e) Notwithstanding subdivisions (b), (c), and (d), all of the
- 27    following recyclable materials are hazardous wastes and subject to
- 28    full regulation under this chapter, even if the recycling involves
- 29    use, reuse, or return to the original process as described in
- 30    subdivision (b), and even if the recycling involves activities or
- 31    materials described in subdivisions (c) and (d):
- 32    (1) Materials that are a RCRA hazardous waste, as defined in
- 33    Section 25120.2, used in a manner constituting disposal, or used
- 34    to produce products that are applied to the land, including, but not
- 35    limited to, materials used to produce a fertilizer, soil amendment,
- 36    agricultural mineral, or an auxiliary soil and plant substance.
- 37    (2) Materials that are a non-RCRA hazardous waste, as defined
- 38    in Section 25117.9, and used in a manner constituting disposal or
- 39    used to produce products that are applied to the land as a fertilizer,
- 40    soil amendment, agricultural mineral, or an auxiliary soil and plant

1 substance. The department may adopt regulations to exclude  
2 materials from regulation pursuant to this paragraph.

3 (3) Materials burned for energy recovery, used to produce a  
4 fuel, or contained in fuels, except materials exempted under  
5 paragraph (1) of subdivision (c) or excluded under subparagraph  
6 (B), (C), or (D) of paragraph (2) of subdivision (d).

7 (4) Materials accumulated speculatively.

8 (5) Materials determined to be inherently wastelike pursuant to  
9 regulations adopted by the department.

10 (6) Used or spent etchants, stripping solutions, and plating  
11 solutions that are transported to an offsite facility operated by a  
12 person other than the generator and either of the following applies:

13 (A) The etchants or solutions are no longer fit for their  
14 originally purchased or manufactured purpose.

15 (B) If the etchants or solutions are reused, the generator and the  
16 user cannot document that they are used for their originally  
17 purchased or manufactured purpose without prior treatment.

18 (7) Used oil, as defined in subdivision (a) of Section 25250.1,  
19 unless one of the following applies:

20 (A) The used oil is excluded under subparagraph (B) or (C) of  
21 paragraph (2) of subdivision (d), paragraph (4) of subdivision (d),  
22 subdivision (b) of Section 25250.1, or Section 25250.3, and is  
23 managed in accordance with the applicable requirements of Part  
24 279 (commencing with Section 279.1) of Title 40 of the Code of  
25 Federal Regulations.

26 (B) The used oil is used or reused on the site where it was  
27 generated or is excluded under paragraph (3) of subdivision (d),  
28 is managed in accordance with the applicable requirements of Part  
29 279 (commencing with Section 279.1) of Title 40 of the Code of  
30 Federal Regulations, and is not any of the following:

31 (i) Used in a manner constituting disposal or used to produce  
32 a product that is applied to land.

33 (ii) Burned for energy recovery or used to produce a fuel unless  
34 the used oil is excluded under subparagraph (B) or (C) of  
35 paragraph (2) of subdivision (d).

36 (iii) Accumulated speculatively.

37 (iv) Determined to be inherently wastelike pursuant to  
38 regulations adopted by the department.

39 (f) (1) Any person who manages a recyclable material under  
40 a claim that the material qualifies for exclusion or exemption

pursuant to this section shall provide, upon request, to the department, the California Environmental Protection Agency, or any local agency or official authorized to bring an action as provided in Section 25180, all of the following information:

(A) The name, street and mailing address, and telephone number of the owner or operator of any facility that manages the material.

(B) Any other information related to the management by that person of the material requested by the department, the California Environmental Protection Agency, or the authorized local agency or official.

(2) Any person claiming an exclusion or an exemption pursuant to this section shall maintain adequate records to demonstrate to the satisfaction of the requesting agency or official that there is a known market or disposition for the material, and that the requirements of any exemption or exclusion pursuant to this section are met.

(3) For purposes of determining that the conditions for exclusion from classification as a waste pursuant to this section are met, any person, facility, site, or vehicle engaged in the management of a material under a claim that the material is excluded from classification as a waste pursuant to this section is subject to Section 25185.

(g) For purposes of Chapter 6.8 (commencing with Section 25300), recyclable materials excluded from classification as a waste pursuant to this section are not excluded from the definition of hazardous substances in subdivision (g) of Section 25316.

(h) Used oil that fails to qualify for exclusion pursuant to subdivision (d) solely because the used oil is a RCRA hazardous waste may be managed pursuant to subdivision (d) if the used oil is also managed in accordance with the applicable requirements of Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

*SEC. 2. Section 25144 of the Health and Safety Code is amended to read:*

25144. (a) For purposes of this section, the following terms have the following meaning:

(1) “Oil” means crude oil, or any fraction thereof, ~~which~~ *that* is liquid at 60 degrees Fahrenheit and 14.7 pounds per square inch absolute pressure. “Oil” does not include any of the following,

1 unless it is exempt from regulation under paragraph (1) of  
2 subdivision (g) of Section 279.10 *of*, or paragraph (5) of  
3 subdivision (g) of Section 279.10 of, Part 279 of Title 40 of the  
4 Code of Federal Regulations:

5 (A) Spent lubricating fluids ~~which~~ *that* have been removed  
6 from an engine crankcase, transmission, gearbox, or differential of  
7 an automobile, bus, truck, vessel, heavy equipment, or machinery  
8 powered by an internal combustion engine.

9 (B) Spent industrial oils, including compressor, turbine, and  
10 bearing oil, hydraulic oil, metal-working oil, refrigeration oil, and  
11 railroad drainings.

12 (2) “Oil-bearing materials” means any liquid or semisolid  
13 material containing oil, partially refined petroleum products, or  
14 petroleum products. “Oil-bearing materials” do not include either  
15 of the following:

16 (A) Soil from remediation projects.

17 (B) Contaminated groundwater that is generated at, or  
18 originating from the operation, maintenance, or cleanup of,  
19 service stations, as defined in Section 13650 of the Business and  
20 Professions Code.

21 (3) “Oil recovery operations” means the physical separation of  
22 oil from oil-bearing materials by means of gravity separation,  
23 centrifugation, filter pressing, or other dewatering processes, with  
24 or without the addition of heat, chemical flocculants, air, or natural  
25 gas to enhance separation.

26 (4) “Petroleum refinery” means an establishment that has the  
27 Standard Industrial Classification Code 2911 and ~~which~~ *that* is not  
28 subject to the permit requirements for the recycling of used oil  
29 imposed pursuant to Article 9 (commencing with Section 25200).

30 (5) “Subsidiary” means a corporate entity engaged in the  
31 exploration, production, transportation, refining, marketing, or  
32 distribution ~~or~~ *of* crude oil or petroleum products.

33 (b) (1) Except as provided in paragraph (2), a biological  
34 process on the property of the producer treating oil, its products,  
35 and water, ~~which~~ *that* meets the definition of a non-RCRA waste,  
36 and ~~which~~ *that* produces an effluent that is continuously  
37 discharged to navigable waters in compliance with a permit issued  
38 pursuant to Section 402 of the Federal Water Pollution Control Act  
39 (33 U.S.C. Sec. 1342), is exempt from this chapter.

(2) Residues produced in the treatment process and subsequently removed that conform to any criterion *for the identification of a hazardous waste* adopted pursuant to Section 25141 are not exempt *from this chapter*.

(c) To the extent consistent with the applicable provisions of the federal act, units, including associated piping, that are part of a system used for the recovery of oil from oil-bearing materials, and the associated storage of oil-bearing materials and the recovered oil, are exempt from this chapter, if all of the following conditions are met:

(1) The oil recovery operations are conducted at a petroleum refinery, or at another facility owned or operated by the corporate entity that owns or operates the refinery, or a corporate parent or subsidiary of the corporate entity.

(2) The oil-bearing materials are generated at the refinery or at another facility owned or operated by the corporate entity that owns or operates the refinery, or a corporate parent or subsidiary, including a sister subsidiary, of the corporate entity, or are generated in the course of oil or gas exploration or production operations conducted by an unrelated entity and placed in a common pipeline.

(3) The recovered oil is inserted into petroleum refinery process units to produce fuel or other refined petroleum products. This paragraph does not allow the direct blending, into final petroleum products, of oil-bearing materials or recovered oil that contain constituents that render these materials hazardous under the regulations adopted pursuant to Sections 25140 and 25141, other than those for which the material is being recycled.

(4) The recovered oil is not stored in a surface impoundment or accumulated speculatively at the refinery or at an offsite facility.

(5) Any residual materials removed from a unit that is exempt under this subdivision are managed in accordance with all other applicable laws.

(6) The oil-bearing materials would be excluded from classification as a waste pursuant to, or would otherwise meet the requirements for an exemption under, Section 25143.2, except that the following provisions do not apply to those oil-bearing materials:

(A) The prohibitions against prior reclamation in paragraphs (1), (2), and (3) of subdivision (b) of Section 25143.2.

1 (B) Subparagraph (C) of paragraph (2) of subdivision (c) of  
2 Section 25143.2.

3 (C) Paragraph (3) of subdivision (e) of Section 25143.2.

4 (D) Sections 25143.9 and 25143.10.

5 (E) *The exceptions for wastewater containing more than 75*  
6 *parts per million of total petroleum hydrocarbons, as provided by*  
7 *subparagraph (A) of paragraph (5) of, and subparagraph (A) of*  
8 *paragraph (6) of, subdivision (d) of Section 25143.2.*

9 SEC. 3. Section 25198 of the Health and Safety Code is  
10 amended to read:

11 25198. (a) For purposes of this section, “state department”  
12 means the State Department of Health Services.

13 (b) Except as provided in subdivision (c), the analysis of any  
14 material required by this chapter shall be performed by a  
15 laboratory certified by the state department pursuant to Article 3  
16 (commencing with Section 100825) of Chapter 4 of Part 1 of  
17 Division 101, except that laboratories previously issued a  
18 certificate under this section shall be deemed certified until the  
19 time that certification under Article 3 (commencing with Section  
20 100825) of Chapter 4 of Part 1 of Division 101 has been either  
21 granted or denied, but not beyond the expiration date shown on the  
22 certificate previously issued under this section.

23 (c) The requirements of subdivision (b) shall not apply to  
24 analyses performed by a laboratory pursuant to the facility’s waste  
25 analysis plan, that is prepared in accordance with the regulations  
26 adopted by the Department of Toxic Substances Control pursuant  
27 to this chapter, if both of the following conditions are met:

28 (1) The laboratory is owned or operated by the same person  
29 who owns or operates the facility at which the waste will be  
30 managed, and the facility is a hazardous waste treatment, storage,  
31 or disposal facility that is required to obtain a hazardous waste  
32 facilities permit pursuant to Article 9 (commencing with Section  
33 25200).

34 (2) The analysis is conducted for any of the following  
35 purposes:

36 (A) To determine whether a facility will accept the hazardous  
37 waste for transfer, storage, or treatment, as described in paragraph  
38 (3) of subdivision (a) of Section 66264.13 of, and paragraph (3)  
39 of subdivision (a) of Section 66265.13 of, Title 22 of the California  
40 Code of Regulations, as those sections read on January 1, 2001.

(B) To ensure that the analysis used to determine whether a facility will accept the hazardous waste for transfer, storage, or treatment is accurate and up to date, as described in paragraph (4) of subdivision (a) of Section 66264.13 of, and paragraph (4) of subdivision (a) of Section 66265.13 of, Title 22 of the California Code of Regulations, as those sections read on January 1, 2001.

(C) To determine whether the hazardous waste received at the facility for transfer, storage, or treatment matches the identity of the hazardous waste designated on an accompanying manifest or shipping paper, as described in paragraph (5) of subdivision (a) of Section 66264.13 of, and paragraph (5) of subdivision (a) of Section 66265.13 of, the California Code of Regulations, as those sections read on January 1, 2001.

(d) An analysis performed in accordance with subdivision (c) is not an analysis performed for regulatory purposes within the meaning of paragraph (19) of subdivision (c) of Section 100825.

(e) The exemption provided by subdivision (c) does not exempt the analyses of waste for purposes of disposal from the requirements of subdivision (b) requiring certified laboratory analyses. The analyses described in subdivision (c) are not exempt from any other requirement of law, regulation, or guideline governing quality assurance and quality control.

(f) No person or public entity of the state shall contract with a laboratory for environmental analyses for which certification is required pursuant to this chapter, unless the laboratory holds a valid certificate.

~~SEC. 2. Section 25250.1 of the Health and Safety Code is amended to read:~~

~~25250.1. (a) As used in this article, the following terms have the following meaning:~~

~~(1) (A) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used, and, as a result of use or as a consequence of extended storage, or spillage, has been contaminated with physical or chemical impurities. Examples of used oil are spent lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; industrial oils, including compressor, turbine, and bearing~~



1 oil; hydraulic oil; metal-working oil; refrigeration oil; and railroad  
2 drainings.

3 (B) “Used oil” does not include any of the following:

4 (i) Oil that has a flashpoint below 100 degrees Fahrenheit or  
5 that has been mixed with hazardous waste, other than minimal  
6 amounts of vehicle fuel.

7 (ii) (I) Wastewater, the discharge of which is subject to  
8 regulation under either Section 307(b) (33 U.S.C. Sec. 1317(b))  
9 or 402 (33 U.S.C. Sec. 1342) of the federal Clean Water Act (33  
10 U.S.C. Sec. 1251 et seq.), including wastewaters at facilities that  
11 have eliminated the discharge of wastewater, contaminated with  
12 de minimis quantities of used oil.

13 (H) For purposes of this clause, “de minimis quantities of used  
14 oil” are small spills, leaks, or drippings from pumps, machinery,  
15 pipes, and other similar equipment during normal operations, or  
16 small amounts of oil lost to the wastewater treatment system  
17 during washing or draining operations. “De minimus quantities of  
18 used oil,” as that term applies to wastewater accepted by facilities  
19 receiving wastewater from generators other than the facility itself,  
20 does not include any quantity of used oil that exceeds either the  
21 discharge limit for oil and grease applicable to the facility pursuant  
22 to the pretreatment requirements imposed by the publicly owned  
23 treatment works into which the facility discharges the wastewater  
24 or the discharge limit for oil and grease applicable to the facility  
25 pursuant to its waste discharge requirements imposed pursuant to  
26 Article 4 (commencing with Section 13260) of Chapter 4 of  
27 Division 7 of the Water Code.

28 (III) This exception does not apply if the used oil is discarded  
29 as a result of abnormal manufacturing operations resulting in  
30 substantial leaks, spills, or other releases or to used oil recovered  
31 from wastewaters.

32 (iii) Used oil re-refining distillation bottoms that are used as  
33 feedstock to manufacture asphalt products.

34 (iv) Oil that contains polychlorinated biphenyls (PCBs) at a  
35 concentration of 5 ppm or greater.

36 (v) (I) Oil containing more than 1000 ppm total halogens,  
37 which shall be presumed to be a hazardous waste because it has  
38 been mixed with halogenated hazardous waste listed in Subpart D  
39 (commencing with Section 261.30) of Part 261 of Title 40 of the  
40 Code of Federal Regulations.

~~(H) A person may rebut the presumption specified in subclause (I) by demonstrating that the used oil does not contain hazardous waste, including, but not limited to, in the manner specified in subclause (H).~~

~~(H) The presumption specified in subclause (I) is rebutted if it is demonstrated that the used oil that is the source of total halogens at a concentration of more than 1000 ppm is solely either household waste, as defined in Section 261.4(b)(1) of Title 40 of the Code of Federal Regulations, or is collected from conditionally exempt small quantity generators, as defined in Section 261.5 of Title 40 of the Code of Federal Regulations. Nothing in this subclause authorizes any person to violate the prohibition specified in Section 25250.7.~~

~~(2) "Board" means the California Integrated Waste Management Board.~~

~~(3) (A) "Recycled oil" means any oil that meets all of the following requirements specified in clauses (i) to (iii), inclusive:~~

~~(i) Is produced either solely from used oil, or is produced solely from used oil that has been mixed with one or more contaminated petroleum products or oily wastes, other than wastes listed as hazardous under the federal act, provided that if the resultant mixture is subject to regulation as a hazardous waste under paragraph (2) of subsection (b) of Section 279.10 of Title 40 of the Code of Federal Regulations, the mixture is managed as a hazardous waste in accordance with all applicable hazardous waste regulations, and the recycled oil produced from the mixture is not subject to regulation as a hazardous waste under paragraph (2) of subsection (b) of Section 279.10 of Title 40 of the Code of Federal Regulations. If the oily wastes with which the used oil is mixed were recovered from a unit treating hazardous wastes that are not oily wastes, these recovered oily wastes are not excluded from being considered as oily wastes for purposes of this section or Section 25250.7.~~

~~(ii) The recycled oil meets one of the following requirements:~~

~~(I) The recycled oil is produced by a generator lawfully recycling its oil.~~

~~(H) The recycled oil is produced at a used oil recycling facility that is authorized to operate pursuant to Section 25200 or 25200.5 solely by means of one or more processes specifically authorized by the department. The department may not authorize a used oil~~

~~1 recycling facility to use a process in which used oil is mixed with  
2 one or more contaminated petroleum products or oily wastes  
3 unless the department determines that the process to be authorized  
4 for mixing used oil with those products or wastes will not  
5 substantially contribute to the achievement of compliance with the  
6 specifications of subparagraph (B).~~

~~7 (H) The recycled oil is produced in another state, and the used  
8 oil recycling facility where the recycled oil is produced, and the  
9 process by which the recycled oil is produced, are authorized by  
10 the agency authorized to implement the federal act in that state.~~

~~11 (iii) Has been prepared for reuse and meets all of the following  
12 standards:~~

~~13 (I) The oil meets the standards of purity set forth in  
14 subparagraph (B).~~

~~15 (H) If the oil was produced by a generator lawfully recycling  
16 its oil or the oil is lawfully produced in another state, the oil is not  
17 hazardous pursuant to the criteria adopted by the department  
18 pursuant to Section 25141 for any characteristic or constituent  
19 other than those listed in subparagraph (B).~~

~~20 (H) The oil is not mixed with any waste listed as a hazardous  
21 waste in Part 261 (commencing with Section 261.1) of Chapter 1  
22 of Title 40 of the Code of Federal Regulations.~~

~~23 (IV) The oil is not subject to regulation as a hazardous waste  
24 under the federal act.~~

~~25 (V) If the oil was produced lawfully at a used oil recycling  
26 facility in this state, the oil is not hazardous pursuant to any  
27 characteristic or constituent for which the department has made the  
28 finding required by subparagraph (B) of paragraph (2) of  
29 subdivision (a) of Section 25250.19, except for one of the  
30 characteristics or constituents identified in the standards of purity  
31 set forth in subparagraph (B).~~

~~32 (B) The following standards of purity are in effect for recycled  
33 oil, in liquid form, unless the department, by regulation,  
34 establishes more stringent standards:~~

~~35 (i) Flashpoint: minimum standards set by the American Society  
36 for Testing and Materials for the recycled products. However,  
37 recycled oil to be burned for energy recovery shall have a  
38 minimum flashpoint of 100 degrees Fahrenheit.~~

~~39 (ii) Total lead: 50 mg/kg or less.~~

~~40 (iii) Total arsenic: 5 mg/kg or less.~~

1 ~~(iv) Total chromium: 10 mg/kg or less.~~

2 ~~(v) Total cadmium: 2 mg/kg or less.~~

3 ~~(vi) Total halogens: 3000 mg/kg or less. However, recycled oil~~  
4 ~~shall be demonstrated by testing to contain not more than 1000~~  
5 ~~mg/kg total halogens listed in Appendix VIII of Part 261~~  
6 ~~(commencing with Section 261.1) of Title 40 of Chapter 1 of the~~  
7 ~~Code of Federal Regulations.~~

8 ~~(vii) Total polychlorinated biphenyls (PCBs): 2 mg/kg or less.~~

9 ~~(C) Compliance with the specifications of subparagraph (B) or~~  
10 ~~with the requirements of clauses (iv) and (v) of subparagraph (B)~~  
11 ~~of paragraph (1) shall not be met by blending or diluting used oil~~  
12 ~~with crude or virgin oil, or with a contaminated petroleum product~~  
13 ~~or oily waste, except as provided in subclause (II) of clause (ii) of~~  
14 ~~subparagraph (A), and shall be determined in accordance with the~~  
15 ~~procedures for identification and listing of hazardous waste~~  
16 ~~adopted in regulations by the department. Persons authorized by~~  
17 ~~the department to recycle oil shall maintain records of volumes and~~  
18 ~~characteristics of incoming used oil and outgoing recycled oil and~~  
19 ~~documentation concerning the recycling technology utilized to~~  
20 ~~demonstrate to the satisfaction of the department or other~~  
21 ~~enforcement agencies that the recycling has been achieved in~~  
22 ~~compliance with this subdivision.~~

23 ~~(D) This paragraph does not apply to oil that is to be disposed~~  
24 ~~of or used in a manner constituting disposal.~~

25 ~~(4) "Used oil recycling facility" means a facility that~~  
26 ~~reprocesses or re-refines used oil.~~

27 ~~(5) "Used oil storage facility" means a storage facility, as~~  
28 ~~defined in subdivision (b) of Section 25123.3, that stores used oil.~~

29 ~~(6) "Used oil transfer facility" means a transfer facility, as~~  
30 ~~defined in subdivision (a) of Section 25123.3, that either stores~~  
31 ~~used oil for periods greater than six days, or greater than 10 days~~  
32 ~~for transfer facilities in areas zoned industrial by the local planning~~  
33 ~~agency, or that transfers used oil from one container to another.~~

34 ~~(7) (A) For purposes of this section and Section 25250.7 only,~~  
35 ~~"contaminated petroleum product" means a product that meets all~~  
36 ~~of the following conditions:~~

37 ~~(i) It is a hydrocarbon product whose original intended purpose~~  
38 ~~was to be used as a fuel, lubricant, or solvent.~~

39 ~~(ii) It has not been used for its original intended purpose.~~

~~(iii) It is not listed in Subpart D (commencing with Section 261.30) of Part 261 of Chapter 1 of Title 40 of the Code of Federal Regulations.~~

~~(iv) It has not been mixed with a hazardous waste other than another contaminated petroleum product.~~

~~(B) Nothing in this section or Section 25250.7 shall be construed to affect the exemptions in Section 25250.3, or to subject contaminated petroleum products that are not hazardous waste to any requirements of this chapter.~~

~~(b) Unless otherwise specified, used oil that meets either of the following conditions is not subject to regulation by the department:~~

~~(1) The used oil has not been treated by the generator of the used oil, the generator claims the used oil is exempt from regulation by the department, and the used oil meets all of the following conditions:~~

~~(A) The used oil meets the standards set forth in subparagraph (B) of paragraph (3) of subdivision (a).~~

~~(B) The used oil is not hazardous pursuant to the criteria adopted by the department pursuant to Section 25141 for any characteristic or constituent other than those listed in subparagraph (B) of paragraph (3) of subdivision (a).~~

~~(C) The used oil is not mixed with any waste listed as a hazardous waste in Part 261 (commencing with Section 261.1) of Chapter 1 of Title 40 of the Code of Federal Regulations.~~

~~(D) The used oil is not subject to regulation as either hazardous waste or used oil under the federal act.~~

~~(E) The generator of the used oil has complied with the notification requirements of subdivision (c) and the testing and recordkeeping requirements of Section 25250.19.~~

~~(F) The used oil is not disposed of or used in a manner constituting disposal.~~

~~(2) The used oil meets all the requirements for recycled oil specified in paragraph (3) of subdivision (a), the requirements of subdivision (c), and the requirements of Section 25250.19.~~

~~(e) Used oil recycling facilities and generators lawfully recycling their own used oil that are the first to claim that recycled oil meets the requirements specified in paragraph (2) of subdivision (b) shall maintain an operating log and copies of certification forms, as specified in Section 25250.19. Any person~~

~~who generates used oil, and who claims that the used oil is exempt from regulation pursuant to paragraph (1) of subdivision (b), shall notify the department, in writing, of that claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. In any action to enforce this article, the burden is on the generator or recycling facility, whichever first claimed that the used oil or recycled oil meets the standards and criteria, and on the transporter or the user of the used oil or recycled oil, whichever has possession, to prove that the oil meets those standards and criteria.~~

~~(d) Used oil shall be managed in accordance with the requirements of this chapter and any additional applicable requirements of Part 279 (commencing with Section 279.1) of Chapter 1 of Title 40 of the Code of Federal Regulations.~~

~~SEC. 3.—~~

*SEC. 4.* Section 25250.9 is added to the Health and Safety Code, to read:

25250.9. (a) A hazardous waste transporter who transports used oil shall annually obtain a written acknowledgment and waiver, signed by both the generator and the transporter, in the form specified in subdivision (b) from each generator of used oil for whom the transporter transports that used oil, if the transporter cannot verify that the used oil has been transported to a facility that meets both of the following criteria:

~~(1) The facility ensures that the used oil is produced, either by itself or by another facility, into recycled oil, as defined in paragraph (3) of subdivision (a) of Section 25250.1. intends to transport the generator's used oil to a facility that the transporter cannot document meets both of the following criteria:~~

*(1) Used oil received by the facility is routinely produced into recycled oil, as defined in paragraph (3) of subdivision (a) of Section 25250.1, in accordance with the procedures set forth in the hazardous waste facilities permit or interim status document governing the facility that produces the used oil into recycled oil.*

(2) The facility, and any subsequent facility to which the used oil is transported prior to being certified as having been produced into recycled oil, is required to meet the requirements applicable to hazardous waste facilities pursuant to the federal act.

(b) The written acknowledgment and waiver required by subdivision (a) shall read as follows:

1 ACKNOWLEDGMENT THAT USED OIL WILL NOT BE RECYCLED  
2 WAIVER OF EXEMPTION FROM MANIFEST FEE

3  
4 \_\_\_\_\_ (used oil generator) hereby acknowledges that \_\_\_\_\_  
5 (used oil transporter) cannot ~~verify~~ *document* that the used oil it is  
6 transporting for ~~us is being produced into recycled oil or that the used oil~~  
7 ~~is being~~ *us is* transported only to facilities that *routinely produce the used*  
8 *oil into recycled oil and that* are required to meet all of the requirements  
9 applicable to hazardous waste facilities under federal law. \_\_\_\_\_ (used oil  
10 transporter) hereby waives its right to claim the exemption from the  
11 hazardous waste manifest fee provided by subparagraph (A) of paragraph  
12 (3) of subdivision (c) of Section 25205.15 of the Health and Safety Code,  
13 for any shipment of used oil that the transporter has not ~~verified~~  
14 *documented* as having been transported to a ~~facility that ensures that the~~  
15 ~~used oil is produced, either by itself or by another facility, into recycled~~  
16 ~~oil, as defined in paragraph (3) of subdivision (a) of Section 25250.1.~~  
17 *facility that documents that the used oil is either: (1) routinely produced*  
18 *into recycled oil, as defined in paragraph (3) of subdivision (a) of Section*  
19 *25250.1, in accordance with the procedures set forth in the hazardous*  
20 *waste facilities permit or interim status document governing the facility*  
21 *that produces the used oil into recycled oil; or (2) recycled in another*  
22 *manner that is expressly authorized under California law.*

23  
24 Executed this date of \_\_\_\_\_

25 Authorized officer of \_\_\_\_\_ (used oil generator)

26 Authorized officer of \_\_\_\_\_ (used oil transporter)

27  
28 *(c) (1) A transporter may document that used oil has been*  
29 *transported to a facility that meets the criteria set forth in*  
30 *paragraphs (1) and (2) of subdivision (a) by retaining a written*  
31 *statement from an authorized officer of the facility that the facility*  
32 *meets the criteria set forth in paragraphs (1) and (2) of subdivision*  
33 *(a).*

34 *(2) A facility that provides a statement that it has met the*  
35 *criteria set forth in paragraph (1) of subdivision (a) but that does*  
36 *not itself produce the used oil into recycled oil shall retain a written*  
37 *statement from the other facility that does produce the used oil into*  
38 *recycled oil certifying both of the following:*

39 *(A) The used oil received by the other facility is routinely*  
40 *produced into recycled oil, as defined in paragraph (3) of*



1 subdivision (a) of Section 25250.1, in accordance with the  
2 procedures set forth in the hazardous waste facilities permit or  
3 interim status document governing the other facility.

4 (B) The other facility is required to meet the requirements  
5 applicable to hazardous waste facilities pursuant to the federal  
6 act.

7 (3) A facility that makes any material misrepresentation in a  
8 statement provided pursuant to this subdivision is in violation of  
9 this chapter. A transporter that relies in reasonable good faith  
10 upon a statement made by a facility to comply with this subdivision  
11 is not in violation of this chapter.

12 (4) Each transporter subject to this section shall retain the  
13 documents necessary to demonstrate compliance with this section,  
14 including each acknowledgment and waiver form, and any  
15 statements from facilities pursuant to paragraphs (1) and (2), for  
16 as long as the transporter is required to retain the manifest for the  
17 used oil to which the documents apply.

18 SEC. 4. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.

27 SEC. 5. *The changes made by Sections 1, 2, and 4 of this act*  
28 *shall not become operative until January 1, 2002.*

29 SEC. 6. This act is an urgency statute necessary for the  
30 immediate preservation of the public peace, health, or safety  
31 within the meaning of Article IV of the Constitution and shall go  
32 into immediate effect. The facts constituting the necessity are:

33 In order to reenact a narrowly crafted exemption from  
34 laboratory certification requirements as soon as possible that  
35 allowed certain routine analyses to be performed at an in-house  
36 laboratory at a hazardous waste facility, recognizing that it is  
37 impractical for hazardous waste facilities to send samples of  
38 materials that are awaiting processing at the facility out to a  
39 certified lab and then wait days for results, and to ~~eliminate sham~~  
40 ~~oil recycling~~ clarify provisions of the hazardous waste control laws

- 1 and thereby better protecting the public health and safety and the
- 2 environment, it is necessary that this act take effect immediately.

O

